

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Petitioner,

No. 2:98-cr-00114 KJM DAD P

12 vs.

13 D'ANGELO DOMINICO DAVIS,

14 Respondents.

ORDER

15 _____/
16 Movant is a federal prisoner proceeding through counsel with an amended motion
17 to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On February 19, 2013,
18 respondent filed an opposition to movant's amended § 2255 motion. On April 20, 2013, after an
19 extension of time, movant filed a thirty-four page traverse. On April 22, 2013, movant filed a ten
20 page addendum to his traverse. On April 24, 2013, respondent filed a motion to amend his
21 opposition and an amended opposition.

22 On June 3, 2013, movant filed a forty-six page amended traverse. Also on June 3,
23 2013, movant filed a motion for leave to file additional briefing in support of his amended
24 traverse. Specifically, movant's counsel now requests additional briefing with respect to the
25 following: (1) the recent decision of the United States Supreme Court in McQuiggin v. Perkins,
26 ____ U.S. ____, 133 S. Ct. 1924 (2013) as it relates to movant's claim of actual innocence; (2)

whether Napue v. Illinois, 360 U.S. 264 (1959) and Giglio v. United States, 405 U.S. 150 (1972) apply to movant's third ground for relief contained in the instant § 2255 motion; and (3) whether Brady v. Maryland, 373 U.S. 83 (1963) "should be considered in Ground 3." (ECF #320 at 5.)

Movant's request to file additional briefing related to the issues listed above will be granted. However, in light of the extensive briefing already filed in this matter by both parties, the court will impose a limitation on the length and timing of the additional briefing, as set forth below.

Accordingly, IT IS ORDERED that:

1. Within two weeks from the filed date of this order, movant may file a supplemental brief of five pages or less in support of his amended traverse on the three topics listed above.

2. Respondent may file an opposing brief of five pages or less within two weeks from the filed date of movant's supplemental brief;

3. Within one week from the filed date of respondent's opposition brief, movant may file a reply brief of five pages or less.

4. Any brief filed by either party that is longer than five pages in length will be stricken from the record.

5. No extensions of time will be granted to either party for this purpose and no further briefing will be allowed in this matter.

6. After the receipt of the parties' briefs described above, movant's § 2255 motion will stand submitted for decision. If the parties choose not to file supplemental briefing, this matter will be deemed submitted for decision two weeks from the filed date of this order.

DATED: June 14, 2013.

DAD:8
davis114.o



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE